U.S. – MEXICO OFFSHORE REGULATION OF OIL AND GAS RESOURCES IN THE GULF OF MEXICO:

A BINATIONAL RESEARCH PROJECT
OF THE CENTER FOR U.S. AND MEXICAN LAW
UNIVERSITY OF HOUSTON LAW CENTER

Two very different energy industries and regulatory cultures exist on each side of the U.S.-Mexico border. Private enterprise, market diversity and competition are imprinted on the U.S. model, but the Mexican model rests on diametrically opposed principles: state ownership of resources and a tightly protected monopoly over their exploitation. The dichotomy between a monopoly on one side of the Gulf of Mexico and a fully open market on the other has clearly delineated the technical, commercial, and regulatory development of each national industrial setting. For decades, each neighbor has kept its own industrial model and regulatory culture separate from the other.

Notwithstanding the above, the possibility that there could be shared hydrocarbon resources crossing the US-Mexico maritime border in the Gulf of Mexico has compelled the governments of the two nations to reflect on their differences and to seek ways to reconcile them. When it comes to the development of transboundary hydrocarbon reserves, the separate coexistence of the industries of the US and Mexico -- each with its own regulatory and industrial culture—is not the best available alternative. International industry practice has proven that collaborative efforts, in which distinct industrial models and regulatory cultures are harmonized, can be the path towards the successful development of shared hydrocarbon resources.

On February 20, 2012, the United States and Mexican governments took an important first step towards reaching a collaborative solution regarding shared hydrocarbon resources. The Agreement between the United States of America and the United Mexican States
Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico (the “Treaty”) is aimed at establishing a collaborative relationship between the United States and Mexico concerning possibly existing oil and gas transboundary reservoirs in the Gulf of Mexico. As a result of the application of the Treaty, US - Mexico interaction over the development of Gulf of Mexico resources will intensify, thereby resulting in potentially significant legal, institutional and regulatory gaps and conflicts.

In light of the above, the Center for U.S and Mexican Law is undertaking a comprehensive regulatory overview of the main topics deriving from the Treaty. A series of studies and professional workshops will identify the most important potential areas of regulatory conflict, and will propose solutions that can guide U.S. and Mexican decision-makers to better manage and reconcile the differences in regulatory culture that currently exist.

We foresee carrying out this research project in phases over a period of two to three years. The initial research agenda will be self-funded by the Center, using the contributions of “seed money” contributed by the Sponsors of the Center. The Center will pursue additional sources of external funding to carry out the full research agenda.

The first phase of the project will consist of a research report in which U.S. and Mexican scholars identify and analyze principles under international and domestic law that govern offshore development of shared hydrocarbons. Many nations that share offshore transboundary hydrocarbon resources have adopted agreements of cooperative management and exploitation. However, the precise perimeters of the international legal obligation to cooperate continue to evolve and are difficult to identify. Moreover, given the fact that the neither the U.S. nor Mexico has been a party to a cooperative joint development or unitization agreement, many legal and policy issues concerning the most effective methods of negotiating and implementing such agreements remain unanswered and are in need of clarification. The Project Directors expect this first phase of research to produce a preliminary report no later than April 2013.
After researching and setting forth the legal principles underlying the exploitation of shared hydrocarbons in this first phase of the project, the Project Directors foresee the development of subsequent phases that will develop recommendations for future actions and institutional arrangements that will improve the prospects for safe, cooperative hydrocarbon production in the Gulf of Mexico.

**Project Directors**

This binational research project will be carried out by Mexican and U.S. researchers under the direction of two project directors, one from Mexico, and one from the United States.

- **Dr. Miriam Grunstein**, the Mexican Co-Director of this binational project, is a Professor of Law at CIDE University in Mexico City. A *summa cum laude* graduate of ITAM University Law School, and a *summa cum laude* graduate (PhD) of New York University, Dr. Grunstein is an expert in energy law, administrative law, and international law. Before joining the faculty at CIDE University, she practiced international energy law with an international law firm. Her research on energy law is recognized nationally and internationally.

- **Dr. Richard McLaughlin**, the U.S. Co-Director of this binational project, is Endowed Chair for Marine Policy and Law at the Harte Research Institute for Gulf of Mexico Studies (HRI) at Texas A&M University – Corpus Christi. Prior to joining HRI, Dr. McLaughlin was Professor of Law and Ray and Louise Stewart Lecturer at the University of Mississippi School of Law, where he taught International Law, Property Law, Ocean and Coastal Law, International Environmental Law, Admiralty Law, and other courses. Dr. McLaughlin has research interests in a broad range of marine and coastal policy and legal issues including the international law of the sea, ocean energy policies, ocean governance, and marine ecosystem-based management. He has been actively involved in a variety of leadership positions in the marine policy field, is a former Fulbright Scholar to Japan and has published over seventy-five articles and monographs on ocean and coastal policy issues. Dr.
McLaughlin currently serves on the Outer Continental Shelf Scientific Advisory Committee, a group that advises the Bureau of Ocean Energy Management (BOEM) regarding development of Outer Continental Shelf energy and mineral resources.

**Collaborating organizations**

The **Center for U.S. and Mexican Law** is the first research center in any U.S. law school devoted to the independent, critical study of Mexican law and legal aspects of U.S.–Mexico relations. Based at the University of Houston Law Center, the CUSMX capitalizes on Houston’s position as a gateway between the United States and Mexico. The Center’s research programs are directed towards increasing the understanding of Mexican laws and legal institutions in the United States, and of U.S. laws and legal institutions in Mexico. See [http://www.law.uh.edu/mexican-law/](http://www.law.uh.edu/mexican-law/).

In carrying out this project, the Center for U.S. and Mexican Law will collaborate with the **Harte Research Institute for Gulf of Mexico Studies**, an endowed research component of Texas A & M University – Corpus Christi. The Harte Research Institute is dedicated to advancing the long-term sustainable use and conservation of the Gulf of Mexico. See [http://www.harteresearchinstitute.org/](http://www.harteresearchinstitute.org/)